

OGC 73-1588
22 August 1973

MEMORANDUM FOR: [REDACTED]

STATINTL

SUBJECT : Colby Working Paper

STATINTL

1. [REDACTED] has asked me to convey to you our comments on the proposed Colby working paper for tomorrow's USIB meeting.

a. We think it well to have the paper indicate that the matter comes from the Inter-agency Classification Review Committee. Our thought is that ICRC and USIB are going to cross paths in the future and it would be well for USIB to start to recognize this.

b. The reference to the Freedom of Information Act, I believe, is inappropriate. The question involved here is declassification, which that Act does not regulate.

c. The solution proposed would be an amendment to DCID 6/3 which I believe Larry discussed at the meeting.

2. I attach a Xerox of your paper with language added to accomplish the points above.

STATINTL

[REDACTED]
Associate General Counsel

Attachment
OGC:RHL:cav

Orig - Addse (hand-carried 8/22/73)

1 - OGC Subj: SECURITY E.O. 11652 - ICRC (c.r. to COMMITTEES)

1 - RHL Signer

1 - Chrono

Background

A request has been made (by Clay Blair, Jr.) for access to official government records relating to the breaking of the Japanese Code (MAGIC) during the Second World War. The OSD Historian estimates that 95% of the messages could be declassified and released. The matter is referred to USIB by the Interagency Classification Review Committee.

Issue

The issue is whether DCID 6/3, when read in the light of EO 11652, ~~XXXXXX of Information XXXX~~ prevents declassification of information derived from COMINT.

DOD: DCID 6/3 prevents declassification of COMINT because it does not provide a time limit and a determination by the DCI is required to resolve the apparent conflict with EO 11652.

O/GC: DCID 6/3 does not prevent declassification of COMINT material based on merits of information in question and the requirement to protect sources and methods.

A-DCI Determination

To make clear that DCID 6/3 is not intended to prohibit a department from downgrading or declassifying COMINT material, paragraph 23 of DCID 6/3 is amended by inserting the following sentence at the end of that paragraph:

This Directive does not preclude any department or agency from downgrading or declassifying any classified COMINT or classified information concerning COMINT in accordance with Executive Order 11652 or any other applicable Executive Order or Presidential Directive.